



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

HALPERIN BATTAGLIA RAICHT, LLP

555 Madison Avenue – 9th Floor
New York, New York 10022
(212) 765-9100
(212) 765-0964 Facsimile
Donna Lieberman, Esq.
Carrie E. Mitchell, Esq.

**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**

A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Ilana Volkov, Esq.
Felice R. Yudkin, Esq.

Co-Counsel for the Class 10 Liquidation Trust

In re:

SHAPES/ARCH HOLDINGS L.L.C., et al.,

Debtors.

Chapter 11

Case No. 08-14631
(Jointly Administered)

Judge: Hon. Gloria M. Burns

**ORDER MODIFYING CERTAIN OF THE DEADLINES
ESTABLISHED IN THE GLOBAL PROCEDURES ORDER
DATED OCTOBER 18, 2010**

The relief set forth on the following pages, numbered two (2) through four (4) is hereby

ORDERED.

DATED: 1/21/2011



Honorable Gloria M. Burns
United States Bankruptcy Court Judge

(Page 2)

Debtor: SHAPES/ARCH HOLDINGS L.L.C., *et al.*

Case No. 08-14631 (GMB)

Caption of Order: ORDER MODIFYING CERTAIN OF THE DEADLINES
ESTABLISHED IN THE GLOBAL PROCEDURES ORDER DATED
OCTOBER 18, 2010

This matter came before the Court on the motion of The Class 10 Liquidation Trust, also known as the Shapes Liquidation Trust (the “Liquidation Trust”), established upon the effective date of the Chapter 11 plan of Shapes/Arch Holdings, for entry of an order modifying the deadlines set forth in the Order Modifying Global Procedures and Establishing Mediation Procedures with Respect to Remaining Avoidance Actions, dated October 18, 2010¹ (the “Modified Procedures Order”); and the Court having determined that adequate notice of the Motion has been given pursuant to Fed. R. Bankr. P. 2002; and the Court having read and considered the Motion, and no objections or responses having been received; and the Court having read and considered the Motion, and arguments of any counsel appearing regarding the relief requested in the Motion; and the Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein:

It is hereby ORDERED that:

1. The Motion be and is hereby GRANTED.
2. The deadlines established in the Modified Procedures Order are modified as set forth below, and the new deadlines are approved:
 - i. **Completion of discovery:** February 25, 2011. All motions to compel discovery are to be made so that the Court can rule and discovery can be obtained prior to that date.
 - ii. **Dispositive motions:** March 25, 2011. Dispositive motions shall be filed by that date and made returnable no later than March 15, 2011.

¹ Capitalized terms used herein and not otherwise shall have the meaning ascribed to them in the Motion.

(Page 3)

Debtor: SHAPES/ARCH HOLDINGS L.L.C., *et al.*

Case No. 08-14631 (GMB)

Caption of Order: ORDER MODIFYING CERTAIN OF THE DEADLINES
ESTABLISHED IN THE GLOBAL PROCEDURES ORDER DATED
OCTOBER 18, 2010

iii. **Mediation.** Any matter that has not been otherwise resolved by or before May 13, 2011 (other than the NEMT matter) shall be referred to mediation as of that date.

3. The mediation deadlines and procedures set forth below are approved:

- The “Initiation Date” of the mediations shall be May 13, 2011. On or before the Initiation Date, the Liquidation Trust shall file with the Court a list of four (4) mediators who are on the register of eligible mediators maintained by the United States Bankruptcy Court for the District of New Jersey (the “Mediators”), and within fifteen (15) days after the Initiation Date, each defendant shall propose to the Liquidation Trust in writing which Mediator will preside over that Remaining Avoidance Action (subject to such Mediator’s availability and clearance of any and all conflict of interest issues), and an alternate Mediator.
- If a defendant does not notify the Liquidation Trust in writing of its choice within fifteen (15) days after the Initiation Date, the Liquidation Trust shall decide, in its sole discretion, which of the Mediators shall preside over the relevant Remaining Avoidance Action (again subject to such Mediator’s availability and clearance of any and all conflict of interest issues) and who shall serve as the alternate, and shall notify the defendant of such choice in writing.
- If the selected Mediator and the alternate Mediator are conflicted or otherwise unavailable, the selecting party shall choose one of the remaining Mediators.
- On or before June 13, 2011, the Liquidation Trust shall file with the Court and serve upon the affected defendants a notice and proposed order identifying the cases that have been referred to mediation, and the selected Mediator and alternate Mediator for each case. Absent an objection to the proposed order within ten (10) days of service, the Court may enter such order (the “Referral Order”).
- The mediations shall be held at (a) the offices of Cole Schotz Meisel Forman & Leonard, P.A., Court Plaza North, 25 Main Street, Hackensack, New Jersey 07601 or Halperin Battaglia Raicht, LLP, 555 Madison Avenue, New York, New York 10022 or (b) such other location reasonably convenient for the parties. The location, date and time of a particular mediation shall be set by the Mediator, after consultation with the parties. All mediations shall occur within forty-five (45) days from entry of the Referral Order.
- Except as specifically modified herein, the mediations shall be governed by the provisions of Local Bankruptcy Rule 9019-2.

(Page 4)

Debtor: SHAPES/ARCH HOLDINGS L.L.C., *et al.*

Case No. 08-14631 (GMB)

Caption of Order: ORDER MODIFYING CERTAIN OF THE DEADLINES
ESTABLISHED IN THE GLOBAL PROCEDURES ORDER DATED
OCTOBER 18, 2010

- Remaining Avoidance Actions that are not resolved in advance of such deadline shall be set for trial ninety (90) days after entry of the Referral Order, on a date that is appropriate in light of the mediation schedule and that is convenient to the Court's calendar.

4. A copy of this Order shall be docketed in the main case, Case No. 08-14631-GMB Shapes/Arch Holdings L.L.C., and in each of the adversary proceedings listed on the attached Exhibit A.

Exhibit A

<u>Adv. Pro. No.</u>	<u>Name</u>
10-01329-GMB	The Class 10 Liquidation Trust v. Compressed Air Equipment, Inc.
10-01033-GMB	The Class 10 Liquidation Trust v. Toco Products, Inc.
10-01346-GMB	The Class 10 Liquidation Trust v. Lamatek, Inc.
10-01352-GMB	The Class 10 Liquidation Trust v. Metal Koting
10-01363-GMB	The Class 10 Liquidation Trust v. South Jersey Processing Inc.
10-01377-GMB	The Class 10 Liquidation Trust v. Northeast Metal Traders, Inc.
10-01392-GMB	The Class 10 Liquidation Trust v. HD Supply
10-01398-GMB	The Class 10 Liquidation Trust v. Carpey, <i>et al.</i> ²

² Adversary Proceeding 10-01398 was commenced against twelve defendants. The Class 10 Liquidation Trust has settled its claims against two of those defendants, Craig & Lori Seller. The litigation is continuing against the remaining ten defendants.